

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

UNITED STATES

VS.

NO. 4:07-CR-00264-06 GTE

SORRELL HONEA, a/k/a JOE

ORDER

Immediately following counsels' exercise of their peremptory strikes but before seating the jury, the Court *sua sponte* questioned on *Batson*¹ grounds the Government's use of a strike against Juror No. 13, the sole alternate juror in this case, an African-American male. Defense counsel argued the strike was improper. Although the legal issue is effectively moot since Juror No. 13 was excused prior to the beginning of jury deliberations, the Court enters this Order because it has learned there may be collateral consequences to its ruling.

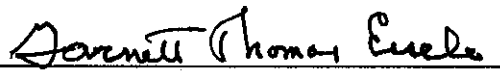
The Prosecution's race-neutral reasons for the strike included the fact that Juror No. 13 worked at the Veteran's Administration as a drug counselor and that the Defendant in this case might have served in the military. At the time the Court made its ruling, Defendant's counsel believed that his client had not served in the military. In fact he had. Additionally, the Court was

¹ *Batson v. Kentucky*, 476 U.S. 79 (1986) (holding that it is a violation of the Equal Protection Clause for the Government to use a peremptory challenge to strike a prospective juror solely on the basis of race).

unclear as to whether Juror No. 13 was the only African-American on the jury. In fact he was not. An African-American female panel member was seated on the jury.

After reconsidering the reasons provided by the Government for striking Juror No. 13 and reviewing the current status of *Batson* jurisprudence,² the Court concludes that it erred when it sustained the *Batson* challenge. The Government adequately stated a race-neutral reason for striking Juror No. 13. The Court wants to clearly state that at no time did it believe that the Government was motivated by any discriminatory purpose or intent in its striking of Juror No. 13. The *Batson* challenge should have been denied.

IT IS SO ORDERED this 10th day of December, 2009.


UNITED STATES DISTRICT JUDGE

² See e.g., *United States v. Rodriguez*, 581 F.3d 775, 791 (8th Cir. 2009).